

CHARLES P. RICCI  
(ON RECONSIDERATION)

IBLA 78-3

Decided March 21, 1978

Petition for reconsideration of Board's decision of January 5, 1978, affirming decision of the Wyoming State Office, Bureau of Land Management, rejecting appellant's offer for oil and gas lease W 60592.

Petition granted; decision of January 5, 1978, set aside and case remanded.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications:  
Drawings--Oil and Gas Leases: Applications: Filing

Where it is shown that a bank erroneously dishonored a check drawn thereon, and an official of the bank admits that the payment was refused by mistake, the error of the bank will not vitiate the otherwise proper payment of the filing fee.

APPEARANCES: Charles P. Ricci, pro se.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

This is a reconsideration of our decision in Charles P. Ricci, 33 IBLA 288, January 5, 1978. The case involves an appeal from the September 14, 1977, decision of the Wyoming State Office (BLM), rejecting oil and gas lease offer W 60592 because appellant's check which was to cover the filing fee was returned marked "insufficient funds." We affirmed the BLM's decision on the grounds that a check which a bank has refused to honor is not a tender or payment of the required fee unless the refusal to honor was the result of bank error, and no bank error was shown.

However, subsequent to issuance of our decision herein, a letter from the account department of appellant's bank reached the Board's offices. The letter states that the return of appellant's check was due to an oversight on the part of the bank.

[1] It is well established that where an official of a bank admits that payment of a check was refused by mistake, the error of the bank will not vitiate the otherwise proper payment of rental to BLM. Pauline V. Trigg, 31 IBLA 296 (1977); Gretchen Capital, Ltd., 29 IBLA 247 (1977); Wikoa Inc., 22 IBLA 6 (1975); Duncan Miller, 70 I.D. 113 (1963).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Board of January 5, 1978, is set aside, the decision appealed from is reversed and the case is remanded to the State Office with directions to issue the lease to appellant, all else being regular.

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Frederick Fishman  
Administrative Judge

We concur.

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Martin Ritvo  
Administrative Judge

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Edward W. Stuebing  
Administrative Judge

